



Exhibit #3
DATE 2/6/2013
HB 1000

American Civil Liberties Union
of Montana
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Helena, MT 59624
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February 6, 2013

Dear Members of the Appropriations Subcommittee,

March 18th marks the 50th anniversary of a landmark Supreme Court decision known as *Gideon*, the plaintiff in *Gideon vs. Wainwright*. What was established in *Gideon* was that legal representation is essential to a fair trial. And if someone who is indigent is brought before the court facing the possibility of jail time, they are **entitled** to competent counsel.

In Justice Hugo Black's decision, he wrote "In our adversary system of criminal justice any person hauled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. This seems to us to be an obvious truth.... Lawyers in criminal courts are necessities, not luxuries... Legal representation is essential to a fair trial. The right of a person charged with crime to counsel may not be deemed fundamental in some countries. But it is in ours."

The Office of Public Defender (OPD) has been chronically underfunded since its **inception**.

OPD's original budget request was based on the best judgment from the OPD management team. It reflected the real indisputable needs of that office for them to get a reasonable chance at providing a more level playing field for all those in need of their services. I remind you of the testimony you heard that clearly defined the advantages of the prosecution in resources and compensation in both the OPD and the Appellate Office as well.

Hopes of a cadre of criminal justice lawyers having parity with prosecuting attorneys have not been even remotely addressed. The fact of the matter is that after more than 6 years of operation the average hourly pay for OPD lawyers is \$26.46 compared to \$35.04 for DOJ attorneys; OPD paralegals \$15.91 compared to \$18.62 at DOJ; and legal secretaries at OPD \$11.40 compared to \$15.20 at DOJ. Remember too that the demand for OPD's services for indigent defense extends far beyond limiting representation to those individuals charged with felonious crimes and extends to representing families in dependency and neglect cases, individuals facing involuntary commitment proceedings and more. See also in the attachment the Goals, Objectives and Action Plan in place to service these varied clients.

In addition, one item not mentioned for target reduction or elimination is the resources dedicated to capital defense. See attached. In the Governor's Budget OPD requested \$500,000 per year for the coming biennium for capital defense. Your subcommittee preliminarily granted them half of that. As you can see, OPD Draft projections indicate FY 13 actual YTD and projected through Jan-June to exceed \$1,200,000. That number does not reflect costs to the prosecution, law enforcement or the judiciary.

For the sake of justice and fulfilling the legislature's good faith commitment to build and adequately fund a statewide public defender system, I encourage you to think and act boldly regarding the OPD budget.

Respectfully,

Scott Crichton, Executive Director





OFFICE OF THE STATE PUBLIC DEFENDER
CAPITAL CASE DEFENSE EXPENDITURES
FY 2011, FY 2012
and
FY 2013 (July-Dec Actuals) (Jan - June Projected Exp.)

	FY 2011	FY 2012	FY 2013 (July - Dec Actuals) & (Jan-June Projected Exp.)
CASE A TOTAL 362,545	\$ 125,738	\$ 236,807	\$ -
CASE B TOTAL	\$ 25,420	\$ 70,729	\$ 5,000
CASE C TOTAL	\$ -	\$ 60,412	\$ 537,112
CASE D TOTAL	\$ -	\$ 30,015	\$ 657,888
GRAND TOTAL	\$ 151,158	\$ 397,963	\$ 1,200,000